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injuries caused thereby. *Held*, that evidence showing that an officer to whom notice would be sufficient had passed the place several days before the accident occurred was not sufficient to warrant a finding by the jury of actual notice. Williams, J., *dissenting*.

This case follows the decision in *Smith v. Rochester*, 79 Hun. 174. But it is difficult to harmonize these cases with the decisions on what constitutes actual notice. The term "actual notice" is sometimes used in the broad sense of constructive notice. *Am. & Eng. Enc. Law*, Vol. 21, p. 582. By the weight of authority the requirement of actual notice is satisfied whenever the authorities by reasonable diligence might have had knowledge. *McVee v. Watertown*, 92 Hun. 310; *Lyman v. Green Bay*, 91 Wis. 488. Some courts lay down broadly the principle that constructive notice, where the facts are uncontroverted, is for the court. *Birdsall v. Russell*, 29 N. Y. 249; *Clafin v. Lenheim*, 66 N. Y. 306. But the application of this principle to municipal corporations is opposed to the weight of authority. *Todd v. Troy*, 61 N. Y. 510; *Decatur v. Bestin*, 169 Ill. 340.

MUNICIPAL CORPORATION—INJUNCTION—PRIVATE PARTY AS PLAINTIFF.—*AMUSEMENT CO. v. CITY*, 74 PAC. 606 (KAS.).—The owner of a theatre sought to restrain city officers from allowing the use of public buildings for lectures and entertainments for private profit. *Held*, that his damages differing only in degree from those sustained by the general public, the action could not be maintained.

Before a person can maintain an action of this kind, he must show some interest peculiar to himself. *Mikesell v. Durkee*, 34 Kas. 509; *Davis v. New York*, 9 N. Y. Supp. Ct. 663. But in the application of this well settled principle there is considerable conflict. It has repeatedly been held that where a schoolhouse is used for religious meetings and entertainments an injunction will be granted against such use on the application of a taxpayer where his property, books and pencils were injured by such use. *School Dist. v. Wood*, 13 Mass. 193; *School Dist. v. Arnold*, 21 Wis. 657; *Spencer v. School Dist.*, 15 Kas. 259. In a few cases it has been held that such use of a schoolhouse might be enjoined at the instance of a taxpayer whose only damage consisted in the illegal use of the building. *Scofield v. School Dist.*, 27 Conn. 499, and cases therein cited. The facts in the principal case show a loss of profit upon the part of the theatre owner which, on its face, is a damage, different in kind as well as in degree from that suffered by the general public, and the decision thus seems contrary to the settled weight of authority.

MUNICIPAL CORPORATIONS—PURCHASE—INCUMBRANCES.—*STATE v. TOPEKA*, 74 PAC. 647 (KAS.).—*Held*, that the city may purchase a system of waterworks subject to an incumbrance.

The precise question in the principal case is presented for the first time. Though a municipal corporation may acquire property; *Windham v. Portland*, 4 Mass. 384; and has the right to secure the purchase price by giving a mortgage; *Eddy v. City*, 26 La. Ann. 636; it is well settled that a city cannot dispose of property of a public nature in violation of the trusts upon which it is held. *Dillon, Mun. Corps.*, sec. 575; *Meriwether v. Garret*, 102 U. S. 472. Waterworks owned by a city are deemed to be held in trust; *New Orleans*